IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.2138 OF 2000

WITH

CRIMINAL APPLICATION NO.3877 OF 2000

IN

CRIMINAL APPEAL NO.365 OF 2000

Sou.Umadevi Ashokrao Kumbhar : Appellant

versus

Shri Ashok Ananda Kumbhar

and ors. : Respondents.

Mr.Milind Deshmukh for the appellant.

Mrs.A.S.Pai, APP, for the State.

CORAM : D.G.DESHPANDE

S.A.BOBDE, JJ.

DATED : AUGUST 04, 2006.

ORAL ORDER

1. Heard the advocate Mr.Deshmukh for the appellant/original complainant and learned APP

Mrs.Pai for the State. Though the respondents/accused are served, nobody is present for them.

2. So far as Criminal Application No.3877 of 2000 is concerned, it is for condonation of delay of seven days. The learned APP has no serious objection to condoned the delay. Hence the Delay is condoned. Criminal Application is disposed of.

3. So far as Criminal Application No.2138 of 2000 is concerned, it is for leave to file appeal. By consent Rule, returnable forthwith. Heard.

4. The petitioner is the wife. She has filed a complaint against all her in-laws who were seven in number, as per Criminal Case No.196 of 1991. All the in-laws were implicated. It was a case under Section 498-A of the Indian Penal Code and under Section 4 of the Dowry Prohibition Act read with Section 34 of the Indian Penal Code. She was married to accused No.1 in 1979. Two children were born in 1986 and 1988. Incident of beating took place in 1981 and

1989. After a full-fledged trial, the trial court acquitted the accused. Hence this application being Application No.2138 of 2000 for leave to file Appeal No.365 of 2000.

5. The complainant/appellant was married with Respondent No.1 in 1979. She filed her complaint before JMFC, Malshiras in 1991 i.e. after 12 years of the marriage. That matter came to be decided after 9 years i.e. in 2000 and this appeal was filed in 2000 coming before for leave in 2006.

6. In her complaint, the appellant had joined all her in-laws. The trial court, after considering all evidence adduced, acquitted the accused. The complaint was in respect of cruel treatment over demand of money. On the face of it, we find that if the marriage took place in 1979, then filing complaint in 1991 and pursuing the matter after 15 years thereafter till this date in spite of acquittal is nothing but an attempt to harass the in-laws.

7. The complainant examined herself, her father and one Kisan Bhandare. The ill-treatment

was started to her four years after the marriage. Because at the time of marriage the accused was studying and he continued his study four years thereafter. The alleged ill-treatment were about not providing her with food and clothes. She admitted that till 1989 she was living happy married life and there was no harassment for purchasing the land. According to her father, no harassment was given till 3rd child was delivered.

8. The court, after scrutinizing the evidence on record, found that it was inconsistent and contrary to each other. Therefore, in these circumstances this is not a case where acquittal is required to be interfered with.

9. For all these reasons, leave is refused. Criminal Application No.2138 2000 is dismissed. Rule is discharged. Appeal No.365 of 2000 does not survive. It is disposed of.

[D.G.DESHPANDE,J]

[S.A.BOBDE, J]